

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

IN THE MATTER OF:

Michael B. Rapasadi
2106 Lake Road
Oneida, NY 13421

Thomas R. Rapasadi
2106 Lake Road
Oneida, NY 13421

Respondents.

Proceeding pursuant to § 309(g) of the
Clean Water Act, 33 U.S.C. § 1319(g)

**Proceeding to Assess Class I
Civil Penalty Pursuant to Section
309(g) of the Clean Water Act**

Docket No. CWA-02-2013-3601

**REPORT OF STATUS CONFERENCE AND ORDER REFERRING THE CASE FOR
ALTERNATIVE DISPUTE RESOLUTION AND CONFIRMING THE PARTIES'
SELECTION OF A NEUTRAL**

The status teleconference in this matter was held on December 18, 2014. Participating were:

Presiding Officer:	Helen S. Ferrara
Respondent's Attorney:	John Benjamin Carroll
Complainant:	Lauren Fischer, Attorney David Pohle Aaron Smith

Introduction: The Presiding Officer requested an update from the parties' attorneys as to progress made in settling this matter since the last status teleconference, and sought confirmation that the parties had definitively decided to forward this matter to a neutral for participation in the Alternate Dispute Resolution process.

Since the July 31, 2014 Status Teleconference, the parties' attorneys have expressed an interest in participating in mediation pursuant to 40 C.F.R. § 22.18. The Presiding Officer may offer the parties an opportunity to voluntarily participate in mediation as a form of Alternative Dispute Resolution (ADR) under 40 C.F.R. § 22.18.

Pursuant to Section 22.18, ADR is a voluntary process governed by the Alternative Dispute Resolution Act ("ADRA"), 5 U.S.C. §§ 571-584. The parties, by their attorneys, confirmed that they wanted to participate in ADR during the December 18th Status Teleconference. During this teleconference, the Undersigned was informed that the parties had chosen the Region 8 Regional Judicial Officer (RJO) Elyana Sutin to act as a neutral in this matter, pursuant to 40 C.F.R. § 22.18(c). This selection was confirmed by the Region 2 ADR Specialist, Joseph Siegel.

Some important points about the ADR process are:

-The ADR process will be conducted in a confidential manner. Unless otherwise required by law, the neutral will not disclose to anyone the contents of any of the parties' ADR communications. There will be no communication on the substance of the case between the neutral and the Undersigned as Presiding Officer.

-Either party may terminate the ADR process at any time.

-The neutral has no authority to impose a decision or settlement of the case on the parties. The purpose of ADR is to facilitate a settlement between the parties.

-Unless terminated earlier by either party, the ADR process will continue for 60 days from the date of this Order. At that time, if the neutral and the parties agree to extend the ADR process, the parties shall file a request with the Presiding Officer seeking an extension. In response, the Undersigned will issue an order stating whether the mediation will be extended for the additional time sought by the parties, not to exceed 60 days. If the ADR process does not result in settlement, the Undersigned as Presiding Officer will resume the litigation process.

Ms. Sutin will arrange a telephone conference with the parties to establish procedures. Mr. Carroll can be reached at (315) 474-5356 and Ms. Fischer can be reached at (212) 637-3231.

IT IS ORDERED:

Based on the election of both parties, the ADR process is commenced, and the designation of RJO Elyana Sutin as a neutral in this matter is hereby confirmed.

Dated: February 10, 2015



Helen S. Ferrara
Presiding Officer

CERTIFICATE OF SERVICE

I hereby certify that the **Report Of Status Conference And Order Referring The Case For Alternative Dispute Resolution and Confirming the Parties' Selection of A Neutral by Regional Judicial Officer Helen Ferrara** in the matter of **Michael B. Rapasadi and Thomas Rapasadi**, Docket No. **CWA-02-2013-3601**, was served on the parties as indicated below:

First Class Mail -

Honorable Elyana R. Sutin
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Karen Maples
Regional Hearing Clerk
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Dated: February 11, 2015